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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

ANNA ALICIA GARCIA,

Defendant and Appellant.

H045656

(Santa Clara County

Super. Ct. No. C1775292)

I. INTRODUCTION

Defendant Anna Alicia Garcia pleaded no contest to second degree robbery (Pen. Code, §§ 211, 212.5, subd. (c))¹ and admitted the allegation that she personally used a deadly and dangerous weapon, a knife, during the commission of the offense (§ 12022, subd. (b)(1)). The trial court suspended imposition of sentence, ordered defendant to serve one year in the county jail, and placed defendant on probation for three years.

On appeal, defendant's appointed counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) that states the case, but raises no issue. We notified defendant of her right to submit written argument on her own behalf within 30 days. That period has elapsed and we have received no written argument from defendant.

¹ All further statutory references are to the Penal Code unless otherwise indicated.

Pursuant to *Wende, supra*, 25 Cal.3d 436 and *People v. Kelly* (2006) 40 Cal.4th 106 (*Kelly*), we have carefully reviewed the entire record. We agree with defendant's appellate counsel that there is no arguable issue on appeal. Therefore, we will affirm the judgment.

II. PROCEDURAL BACKGROUND

Following the California Supreme Court's direction in *Kelly, supra*, 40 Cal.4th at page 110, we provide a brief description of the procedural history of the case.²

On October 13, 2017, defendant was charged by felony complaint with second degree robbery (§§ 211-212.5, subd. (c); count 1) and attempted second degree robbery (§§ 664, 211-212.5, subd. (c); count 2). It was also alleged that defendant personally used a deadly and dangerous weapon, a knife, during the commission of the attempted robbery (§ 12022, subd. (b)(1)).

On January 10, 2018, pursuant to a negotiated plea, defendant pleaded no contest to second degree robbery (count 1). The prosecution orally amended the complaint to allege that defendant personally used a deadly and dangerous weapon, a knife, during the commission of the robbery, and defendant admitted the allegation.

Defendant's sentencing was scheduled for March 1, 2018. On that date, defendant orally requested to withdraw her plea. The trial court asked defendant to recite the basis for her request, and defendant stated, "Because the only way the victim knows me is she was sleeping with my husband." The court continued the matter until March 6, 2018.

On March 6, 2018, defendant's trial counsel informed the trial court that defendant "wishes to go to trial." The trial court denied defendant's request, but asked if defendant had any other reasons why she wanted to withdraw her plea. Defendant responded that she had "just got [her] discovery packet the week that [she] came back to court." The

² We do not provide a summary of the facts underlying the charged offenses because the facts are not part of the record on appeal.

trial court told defendant that she had not stated a legal basis to withdraw her plea, such as mistake or undue influence, and that she had not demonstrated good cause to withdraw her plea by clear and convincing evidence. The trial court denied defendant's request and proceeded to sentence defendant. The trial court dismissed the attempted robbery count (count 2), suspended imposition of sentence, and placed defendant on probation for three years. Defendant was ordered to serve one year in the county jail and to comply with the terms of probation, including substance abuse treatment. The trial court reinstated and extended defendant's probation in an unrelated case, and reinstated and terminated defendant's probation on two unrelated cases.

Defendant timely appealed.³

III. DISCUSSION

Having carefully reviewed the entire record, we conclude that there are no arguable issues on appeal. (*Wende, supra*, 25 Cal.3d at pp. 441-443.)

IV. DISPOSITION

The judgment is affirmed.

³ Defendant filed two notices of appeal. On March 8, 2018, defendant filed a notice of appeal that stated that the "appeal challenges the validity of the plea or admission." Defendant requested a certificate of probable cause, which the trial court granted. On March 26, 2018, defendant filed an amended notice of appeal, indicating that the appeal was "based upon the grounds that the court committed sentencing error or other matters occurring after the entry of a plea of nolo contendere which do not challenge the validity of the plea."

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

ELIA, ACTING P.J.

MIHARA, J.

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